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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/849,383	05/05/2001	Andrea R. Brady	LBL1028U	8207

25197 7590 05/13/2003

LEARY & ASSOCIATES  
3900 NEWPARK MALL RD.  
THIRD FLOOR, SUITE 317  
NEWARK, CA 94560

EXAMINER

MELWANI, DINESH

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 05/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/849,383

Applicant(s)

BRADY ET AL.

Examiner

Dinesh N Melwani

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

Acknowledgement is made of applicant's submission of:

Extension Of Time filed on 2/24/03

Amendment A, which added claims 17-20, filed on 2/24/03

The aforementioned items have been noted and officially inserted into the application.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4, 6, 13, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Timid Tattoos website (publishing date 11/28/99). The Timid Tattoos website discloses a beaded fashion accessory as claimed; wherein said accessory comprises a strand of material, a plurality of beads connected with said strand of material, and an adhesive suitable for adhering said beads and strand of material to the skin of the user, wherein when said beaded fashion accessory is worn by the user the adhesive connects said plurality of beads directly to the skin of the user.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-11, 14, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benedek *et al.* (U.S. Patent No. 4,562,704) in view Swaim (U.S. Patent No. 5,279,132).

Benedek discloses a beaded fashion accessory substantially as claimed; wherein said accessory comprises a malleable strand of material (i.e., a metal chain) preformed into a design (1), and a plurality of beads (30) having holes, Figs. 2-4. Benedek does not include an adhesive for adhering said beads and strand of material to the skin of the user, wherein when said beaded fashion accessory is worn by the user the adhesive connects said plurality of beads directly to the skin of the user. Swaim discloses a holding device, wherein said holding device is for use with body adornments such as necklaces, bracelets, and anklets. Swaim also discloses that the holding device is formed "a charm or like that has a surface capable of receiving a double-sided adhesive, spray adhesive, or brush on adhesive", see col. 2, lines 33-40. In regards to claims 3-5, the applicant is reminded that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). Still furthermore, in regards to claims 7-11, a change in the size of a prior art device is a design consideration within the skill of the art. *In re Rose*, 220 F.2d 459, 105 USPQ 237 (CCPA 1955). More specifically, Swaim discloses said strand of material being any one of chain, string, or leather (i.e. fabric), see column 1, lines 25-26. Therefore, it would have

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been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Swaim, in regards to a charm having a double sided adhesive, to modify the beads (i.e., charms) of Benedek such that the chain, along its entire length, is held in place on the user's body in proper orientation during energetic activity such as jogging.

5. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benedek *et al.* (U.S. Patent No. 4,562,704) in view of Swaim (U.S. Patent No. 5,279,132) in further view of Hector (U.S. Patent No. 5,590,546). Benedek, as modified by Swaim, discloses a bead fashion accessory substantially as claimed, but does not include a plurality of strands of beads, wherein said strands are woven with additional strands of beads to form a pattern and a two dimensional array of beads. Hector discloses an accessory that teaches the use of a plurality of strung beads, wherein said beads are effectively woven to form a two dimensional array pattern, see Figures 1-29. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the teachings of Hector, in regards to the use of a plurality of stranded beads, to provide Benedek, as modified by Swain, with additional aesthetic versatility since said strands maybe arranged in selectively different patterns, see Hector's Abstract.

6. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benedek *et al.* (U.S. Patent No. 4,562,704) in view of Swaim (U.S. Patent No. 5,279,132) in further view of Hector (U.S. Patent No. 5,590,546). The methods of decorating the skin and body as recited by the applicant in claims 15 and 16 are deemed inherent based on the structure of the prior art of record. Since the teachings of the references taken as a whole necessitate the steps described in said method, it would have been obvious to one having ordinary skill in the art at the time the invention was made to carry out the necessary steps described by said method.

*Response to Arguments*

7. Applicant's arguments filed on 02/24/03 have been considered but have not been found to be persuasive.

8. The Applicant contends that the Swaim reference is directed to a "single tacky surface, which is used to hold a discrete point of a necklace or bracelet to the user". The Examiner directs the applicant's attention to col. 2, lines 33-40, where the Swaim discloses that the holding device may comprises a charm or any surface capable of receiving an adhesive. Therefore, the Examiner asserts that it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the charms of Benedek by applying adhesive to them to prevented unwanted movement of the jewelry piece.

*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Yougottahaveit.com website disclose the present invention substantially as claimed.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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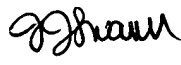
the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinesh N Melwani whose telephone number is 703-305-4546. The examiner can normally be reached on M-F, 8:30-6 except every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4115.

DNM  
May 6, 2003

  
J. J. SWANN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600